

0.9-06

CAUSE NO. 2005-38821

ALEJANDRO BENAVIDEZ

Plaintiff,

v.

RAILSERVE, INC.

Defendants.

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§

IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

234<sup>th</sup> JUDICIAL DISTRICT

**DEFENDANT U.S. DEVELOPMENT GROUP, INC.'S RESPONSES TO  
PLAINTIFF'S REQUEST FOR DISCLOSURE**

TO: Plaintiff Alejandro Benavidez by and through his attorney of record Wayne D. Collins,  
Collins & O'Neal, PLLC, 1177 West Loop South 700, Houston TX 77027.

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant U.S.  
Development Group, Inc. ("USDG") serves its Responses to Plaintiff's Request for Disclosure.

Respectfully submitted,

SHEEHY, SERPE & WARE, P.C.

By:



Raymond A. Neuer

State Bar No. 14928350

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Houston, Texas 77010-1003

Tel: (713) 951-1000

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*Attorneys for Defendant*

*U.S. Development Group, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument has been forwarded to all known counsel of record in accordance with the Texas Rules of Civil Procedure on this the 9<sup>th</sup> day of October 2006.



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Raymond A. Neuer

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**DEFENDANT U.S. DEVELOPMENT GROUP, INC.'S RESPONSES TO  
PLAINTIFF'S REQUEST FOR DISCLOSURE**

- (a) The correct names of the parties to the lawsuit;

**RESPONSE:** Alejandro Benavidez  
Railserve, Inc.  
Deer Park Rail Terminal, Inc.  
U.S. Development Group, Inc.

- (b) The name, address, and telephone number of any potential parties;

**RESPONSE:** None known at this time.

- (c) The legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);

**RESPONSE:** USDG did not owe plaintiff a duty. USDG is not a common carrier and has no FELA liability. No act or omission on the part of USDG was a proximate cause of damages to Plaintiff. Plaintiff's claims are barred by the doctrine of contributory negligence. The Plaintiff's work was supervised and controlled by Railserve, Inc., not USDG.

- (d) The amount and any method of calculating economic damages;

**RESPONSE:** USDG is not claiming economic damages in this case.

- (e) The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

**RESPONSE:** Alejandro Benavidez  
4418 W. Pasadena Blvd.  
Deer Park, TX 77536  
281-478-4703  
Plaintiff

David Jones  
Railserve, Inc.  
5100 Underwood Road  
Pasadena, TX 77507  
Site Leader

Herman Bennett  
Railserve, Inc.  
5100 Underwood Road  
Pasadena, TX 77507  
281-457-2038  
Crew Leader

Devon Stroud  
Railserve, Inc.  
5100 Underwood Road  
Pasadena, TX 77507  
832-867-1083  
Operator

Mike Henderson  
Railserve, Inc.  
5100 Underwood Road  
Pasadena, TX 77507  
281-639-1161  
Yardmaster

Rick Orms  
Regional Leader  
Railserve, Inc.  
DPRT - Deer Park Rail Terminal  
5100 Underwood Road  
Pasadena, TX 77507

Tim Benjamin  
Railserve, Inc.  
1691 Phoenix Boulevard, Suite 110  
Atlanta, GA 30349

Paul Tucker  
U.S. Development Group  
[address to come]

Deputy A. Alanis  
Harris County Sheriff's Office  
Unit 4377  
14350 Wallsville  
Houston, TX 77049  
713-455-8050

(f) For any testifying expert:

- (1) The expert's name, address, and telephone number;
- (2) The subject matter on which the expert will testify;
- (3) The general substance of the expert's mental impressions and opinions had a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) If the expert is retained by, employed by, or otherwise subject to the control of the responding party;
- (A) All documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipate of the expert's testimony; and
- (B) The expert's current resume and bibliography;

**RESPONSE:** USDG has not designated experts at this time. USDG will supplement this response to Request for Disclosure at a later date.

(g) Any discoverable indemnity and insuring agreements;

**RESPONSE:** Will supplement.

(h) Any discoverable settlement agreements;

**RESPONSE:** None.

(i) Any discoverable witness statements;

**RESPONSE:** See witness statements produced in response to Request for Production by Railserve, Inc.

(j) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;

**RESPONSE:** Counsel for USDG is in possession of the medical records regarding the Plaintiff which are available for inspection and copying at the offices of Sheehy, Serpe & Ware, P.C. at a mutually convenient date and time.

- (k) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

**RESPONSE:** Not applicable.

- (l) The name, address, and telephone number of any person who may be designated as a responsible third party.

**RESPONSE:** Unknown at this time.

**ACORD CERTIFICATE OF LIABILITY INSURANCE**

PRODUCER		CSR CH DEERP-1	DATE (MM/DD/YYYY) 10/04/06
Brown & Brown of Texas, Inc. PO Box 670728 Houston TX 77267-0728 Phone: 281-260-2000 Fax: 281-260-3065		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED		INSURERS AFFORDING COVERAGE	NAIC #
Deer Park Rail Terminal 9500 New Century Drive Pasadena TX 77507		INSURER A Lexington Insurance Company	19437
		INSURER B	
		INSURER C	
		INSURER D	
		INSURER E	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$  BODILY INJURY (Per person) \$  BODILY INJURY (Per accident) \$  PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$  OTHER THAN EA ACC \$ AUTO ONLY AGG \$
<b>A</b>	<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$	2241810	04/01/05	04/01/06	EACH OCCURRENCE \$ 30,000,000 AGGREGATE \$ 60,000,000  \$ \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below  OTHER				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

**CERTIFICATE HOLDER****CANCELLATION**

Sample Certificate

SAMCE01

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.